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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 MICHAEL TRAN,

15 Defendant.
16

Case No. 19-mj-71756 (NC)

DETENTION ORDER

Hearing: 10/31/19

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18 In accordance with the Bail Reform Act, 18 U.S.C. § 3142, the Court on October 31,
19 2019, held a detention or release hearing for defendant Michael Tran. The Court concluded
20 that Tran must be detained as a danger to the community.

21 Tran is charged by complaint in this judicial district for one felony count of felon in
22 possession of ammunition (18 U.S.C. § 922(g)(1)). *See* Complaint, ECF 1, filed
23 10/25/2019. Tran first appeared in federal court on this charge on October 25, 2019. He is
24 presumed innocent of the charge and nothing in this order may be construed as evidence of
25 his guilt. He appeared at the detention hearing with his appointed counsel, AAFP Robert
26 Carlin. Tran was advised of his rights and was advised that he may appeal this detention
27 order to the general duty District Court judge.

28 Both parties presented their factual assertions by proffer and the government

1 presented to the defense and to the Court an edited video of events at a café where Tran is
2 alleged to have fired six shots from a firearm on March 16, 2019. The parties and the Court
3 were assisted by a pre-bail report prepared by Pretrial Services dated October 30; Pretrial
4 recommended detention based on danger to the community.

5 Based on the information presented to the Court and considering all the factors set
6 forth in 18 U.S.C. § 3142(g), the Court determined that the prosecution has shown by more
7 than clear and convincing that there is no combination of conditions that will reasonably
8 assure the safety of the community. Factors considered of concern to the Court: nature and
9 circumstances of the instant offense (possession and use of a firearm in a dangerous
10 manner); instant offense committed while on community supervision; prior convictions for
11 crime of violence and firearms offense and controlled substance; Tran alleged to be member
12 in violent criminal street gang; and history of controlled substance usage. As to risk of non-
13 appearance, the Court concluded that there are a combination of conditions that could
14 reasonably assure the defendant's future appearances, given that he posted bail this year in
15 state court, had made court appearances in state court, did not have a history of failure to
16 appear in earlier cases, has full employment, and has familial and social connections to this
17 community.

18 The defendant is committed to the custody of the Attorney General or his designated
19 representative for confinement in a corrections facility separate, to the extent practicable,
20 from persons awaiting or serving sentences or being held in custody pending appeal. The
21 defendant must be afforded a reasonable opportunity for private consultation with defense
22 counsel. On order of a court of the United States or on the request of an attorney for the
23 Government, the person in charge of the corrections facility must deliver the defendant to a
24 United States Marshal for the purpose of an appearance in connection with a court
25 proceeding.

26 IT IS SO ORDERED.

27 Date: October 31, 2019

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Nathanael M. Cousins
United States Magistrate Judge